

Seattle University School of Law Digital Commons

Faculty Scholarship

1-1-2003

Serving Pro Se Patrons: An Obligation and an Opportunity

Kerry Fitz-Gerald

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/faculty>



Part of the [Legal Education Commons](#)

Recommended Citation

Kerry Fitz-Gerald, Serving Pro Se Patrons: An Obligation and an Opportunity, 22 *LEGAL REFERENCE SERVICES Q.* 41 (2003).

<https://digitalcommons.law.seattleu.edu/faculty/547>

This Article is brought to you for free and open access by Seattle University School of Law Digital Commons. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of Seattle University School of Law Digital Commons. For more information, please contact coteconor@seattleu.edu.

Serving *Pro Se* Patrons: An Obligation and an Opportunity

Kerry L. Fitz-Gerald

ABSTRACT. Historically, non-lawyer patrons in law libraries have been viewed with discomfort, and library services, even in libraries open to the public, have been geared toward members of the legal community. However, changes in both the needs of the public and in the demographics of library patrons are challenging the traditional allocation of services in public law libraries. This article discusses the reasons for the traditional allocation of services, the cultural and economic forces that are bringing the public to law libraries in greater numbers, and new modes of service that can better meet the needs of public patrons. [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2003 by The Haworth Press, Inc. All rights reserved.]

KEYWORDS. *Pro se* patrons, public law libraries, non-lawyer patrons

INTRODUCTION

One of my patrons demanded that I speak with the judge about making the police give his gun back. Another asked for help with the Lexis terminal—every day, for six months. A third patron parked at the reference desk and insisted, repeatedly and loudly, “But I don’t want legal advice, just tell me what you *think*.” As you may guess, I work in a law library open to the public. And as you well know, any public law librarian can tell many more amusing-but-exasperating war stories about non-lawyer patrons.¹

Kerry L. Fitz-Gerald is Reference Librarian, Seattle University Law Library.

Legal Reference Services Quarterly, Vol. 22(2/3) 2003
<http://www.haworthpress.com/store/product.asp?sku=J113>
© 2003 by The Haworth Press, Inc. All rights reserved.
10.1300/J113v22n02_03

Of course, the same librarians have another set of stories: about the patron who managed to successfully challenge her eviction notice, the father who enforced his visitation rights, or the man who went to six other agencies before finding, in the library, the necessary paperwork to enable his grandchildren to collect on a life insurance policy.

Unfortunately, the positive stories often come last, because law librarians tend to focus on the frustrating side of serving the public. The professional literature is replete with descriptions of the trouble public patrons cause, with debates about withdrawing from the Federal Depository Program in order to escape dealing with them in otherwise closed libraries, and with tips for minimizing difficult reference interactions.

This negative focus is problematic because non-lawyers are an increasingly large portion of the user base of law libraries open to the public. As these numbers shift, we need to recognize this sea change and focus on how we can enhance our service to this growing user group. Some libraries are already making this shift, and in this paper I include a list of techniques and programs being used by some law libraries around the country to address the needs of their *pro se* patrons.

I begin by defining public libraries and addressing the ethical obligations of these libraries to serve the public. I then consider the sources of negative attitudes towards *pro se* patrons, and argue that these should no longer explicitly or implicitly control our treatment of *pro se* patrons. Next, I discuss today's reality—the cultural and economic changes which are turning *pro se* patrons into our primary users. Finally, I turn to the techniques and programs currently being used to provide legal information to the public in creative and useful ways.

It is interesting to note that the techniques I discuss here were compiled from the responses of law librarians across the country. If there is a culture of treating *pro se* patrons with condescension and exclusion, the responses to my research show that there is a parallel culture that is trying, with limited resources but great energy and imagination, to serve *pro se* patrons in a manner that really improves their access to justice. It is my hope that this paper will help to bring this parallel culture to the forefront of our discussions of serving *pro se* patrons.

I. DEFINING PUBLIC LAW LIBRARIES

Public law libraries are defined by their enabling statutes and their mission or vision statements. Enabling statutes often represent the most

fundamental statement of purpose of a law library. They speak to the reason for the library's existence. Mission and vision statements represent the library's own statement of purpose and self-identified goals. In this paper I use "public law library" to mean an institution which is obligated by its enabling statutes or mission statement to serve the public and hold its entire collection open to the public.

I. A. Enabling Statutes

County law libraries, state law libraries, and some state sponsored law libraries (at universities) were originally created by statute. Where such statute is available, a library should consider this as a fundamental statement of the purpose of the library. Where the statute is clear on its face, the principles of statutory construction would require the library to provide services to all listed user groups. With such a statute, a library should develop its mission statement and collection policies so as to serve all the user groups identified in this statute.

For example, county law libraries in California are provided for in Chapter 5 of Division 3 of the California Business and Profession Code. Under section 6360,

A law library established under this chapter shall be free to the judiciary, to state and county officials, to members of the State Bar, and to all residents of the county, for the examination of books and other publications at the library or its branches.²

In this and other cases, the "letter of the law" requires that *all* these groups have access to the library and its materials. In practice, biases against public patrons may mean that the spirit of open and equal access is violated.

I. B. Mission and Vision Statements

In a 1994 article about drafting format selection guidelines for libraries, Jonathan Franklin argues that

The mission statement is important because it describes the underlying reason for the library's existence—its intended group of patrons. It is essential to know the library's target audience in order to determine which formats are appropriate or inappropriate for that audience's needs.³

The mission statement should be the most fundamental statement of the library's purpose. By looking at that statement, libraries should not only be able to guide format choices, as Franklin says, but should also guide collection development and service provision.

Mission statements, where they exist, vary widely from institution to institution. Some statements are very short, indicating a mission in only the broadest of terms. Others are longer, and more detailed, perhaps even encompassing a collection development policy. Below I review several representative statements from county, state, court, and academic libraries. Each of these statements represent varying degrees of openness to public service, and reflect, in some cases, carefully stated limitations.

As might be historically expected, many county law libraries have the most positive statements of service to the public. One example of a short and straightforward statement is that of the Johnson County Law Library in Olathe, Kansas.

The mission of the Board of Trustees of the Johnson County Law Library is to make available to judges, attorneys, county officials, and all citizens of the county, outstanding legal resources and services that will enable users to perform at the highest level of research and practice.⁴

This mission statement does not prioritize these users in any way. From the text alone, one naturally draws the sense that the public is as entitled to "outstanding legal resources and services" as are judges, attorneys or county officials.

Law libraries that wish to prioritize users, or to otherwise limit services to particular user groups can and should indicate such priorities in their mission statement. One such prioritization is included in the mission statement of the North Dakota Supreme Court Law Library.

The primary purpose of the law library is to support the legal information needs of the North Dakota Supreme Court and the judicial system. The secondary purpose is to support the legislature and administrative agencies of the state. The library's resources are also available to the members of the North Dakota bar and the public. The availability to others is limited to the extent it does not compromise the library's primary purpose.⁵

Another example of limiting public service can be found in the statement of the Stark County Law Library in Canton, Ohio.

The mission of this law library is to collect and make easily accessible the resources necessary for the Practice of Law in this state and local environs in any media deemed suitable for use of its patrons. The patrons are primarily the Ohio Bar Members who are members of this Association, Officers of the Courts, and elected officials of this state. No one requesting materials uniquely available in this library will be turned aside, but the ethical stance that law will be practiced only by members of the bar will be followed. . . .⁶

This mission statement raises a fundamental and potentially uncomfortable issue about the concept of the practice of law. We will see how, historically, law libraries came into being to serve groups of people who “practice law”; these groups “practice law” in the sense that they are *licensed to represent others*. But it happens that not all practice of law is the representation of others, because there is a fundamental right to self-representation.⁷ In other words, people who do not want or cannot afford representation by “those who practice law” are also people who “practice law”—in the different sense that they (rightfully) *represent themselves*. Once the umbrella of “those who practice law” has been expanded in this way, it becomes very much harder to defend restrictive mission statements.

Many academic libraries are not open to the public, or open only to the extent required by the Federal Depository Program. Limited access, and therefore the lower priority of public patrons, is addressed in some mission statements. For example:

The mission of the University of San Diego Legal Research Center is to support the curriculum and programs of the law school, promote the advancement of legal scholarship, and meet the legal information needs of the University. As a partner in the law school’s goals of preparing competent lawyers and improving the law, we strive for excellence in the collection, in its methods of access, and in our offerings of teaching and service programs. The Legal Research Center provides leadership in the creative uses of technology. As a federal depository, we accept the responsibility to make documents selected for the collection available to the public. The Legal Research Center safeguards patron privacy and champions the right to read.⁸

Each of the mission statements included above clearly states the priority of users within the library. They show how easy it is to publicize a

hierarchy among patron groups where this is the intention; at the very least, therefore, it seems reasonable to demand of libraries that they treat all patron groups equally unless their mission statement offers a clear contrary policy.

II. THE ETHICAL OBLIGATION TO SERVE THE PUBLIC WELL

The obligation to serve public patrons well does not end with, nor entirely depend upon, statutes and mission statements. The obligation is also a moral one, and it is not a matter of any controversy: on the contrary, it is set forth clearly in the American Association of Law Libraries' own ethical principles.

In 1990, as part of the mission statement for the 1990-94 strategic plan, AALL asserted the social value served by legal information:

Recognizing that the availability of legal information to all people is a necessary requirement for a just society, the American Association of Law Libraries exists to promote and enhance the value of law libraries to the public, the legal community, and the world, to foster the profession of law librarianship, and to provide leadership in the field of legal information.⁹

The current strategic plan, adopted in 2000, includes the recognition of this greater social good in its vision statement:

Since the ready availability of legal information is a necessary requirement for a just and democratic society, AALL and its members advocate and work toward fair and equitable access to authentic current and historic legal information, and educate and train library users to be knowledgeable and skilled information consumers.¹⁰

This social goal is reiterated in the preamble to the Ethical Principles adopted by the AALL membership in 1999.

When individuals have ready access to legal information, they can participate fully in the affairs of their government.¹¹

The Ethical Principles go further, and state not just the social good which we as librarians serve, but also identify the values and beliefs which drive our practice. Sections of the principles which deal directly with service to the public include:

Law firms, corporations, academic and governmental institutions and the general public have legal information needs that are best addressed by professionals committed to the belief that serving these information needs is a noble calling and that fostering the equal participation of diverse people in library services underscores one of our basic tenets, open access to information for all individuals.

We promote open and effective access to legal and related information.¹²

If we as librarians have truly adopted these principles, it is clear that we cannot “promote open and effective access to legal and related information” simply by giving public patrons the opportunity to look at legal books. The field is sufficiently complicated and challenging that in the absence of effective reference service, access is meaningless. The ethical principles tell us that our profession rests on a commitment to provide open and effective access to legal information for all people. An informed society is a healthy society, and those who serve as librarians stand obliged to serve the legal information needs of all citizens. However, as I argue below, there are a number of reasons why, implicitly or explicitly, public patrons have been viewed and treated as secondary (or tertiary) library users.

III. SOURCES OF NEGATIVE ATTITUDES TOWARDS PUBLIC PATRONS

Some librarians are quick to assert that public patrons are just more difficult than other patrons.¹³ Whether this is true or not, there are three additional factors that must be considered. First, historically, the law and law libraries have been the exclusive province of the bar. This original role still informs the attitudes and actions of many law libraries. Secondly, law librarians must tread very carefully to avoid the perils of practicing law without a license. This concern has always colored attitudes toward public patrons, and continues to do so. Third, tight budgets have restricted collection development, and libraries have often responded by focusing resources on their “primary” patrons.

III. A. The History of Law Libraries

The earliest practitioners of law in this country relied upon personal collections of law materials. These books, primarily practical in nature, were almost all English. After the Revolutionary war, even though these practitioners would have preferred to use non-English materials,

they were forced to continue to collect and use them until America developed a significant jurisprudence of its own.¹⁴ Then, as now, lawyers needed access to legal materials—wishing not to rely on English materials did not make it possible for a practitioner to be effective in the absence of written legal information. Access to information, even then, was essential to the practice of law.

As American jurisprudence grew, and as the need for law books increased, lawyers often found their private collections growing, and found themselves sharing resources. Over time, these private collections and informal sharing arrangements formed the basis of the institutionalized law libraries of the 19th and 20th centuries.

The earliest institutionalized law libraries were bar libraries. These libraries, in many cases built from the aggregated private collections of its members, provided personal service and were frequently run much like private clubs.¹⁵ They often substituted for personal collections, and it was a source of pride to belong to a Bar with a substantial library. These libraries were funded either by subscription and stock sale, or by incorporation. In any event, only members or those who financially supported the library were entitled to use it.

Because the first law libraries were an organic outgrowth of the private collections of practitioners, the organization system and mission of these law libraries mimicked those of the private collections. This meant that:

A system that worked for the private collections of practitioners' books became institutionalized: Bar libraries, county libraries, State libraries, Federal libraries, court libraries, and school libraries were originally set up and run as if they were the small private collections of practicing lawyers.¹⁶

As bar libraries, and as libraries that were set up for the use of practicing lawyers, these collections were not accessible to the public. Public law libraries did not develop until the latter part of the 19th century, as part of the free library movement begun earlier that century. Supported by public funds, these libraries served judges, State officials, attorneys who were not members of bar libraries, and private citizens. Although these libraries were nominally open to the public, the emphasis within these libraries remained on service to members of the profession.

Laws providing for public law libraries were made and introduced by lawyers, and lawyers wanted their libraries separate from the facilities of nonprofessional users.¹⁷

The public funding of these collections served other needs. In part, because they were publicly funded, these libraries provided “neutral” collections of books. Thus, an attorney did not have to borrow a book from opposing counsel, and a judge did not need to be dependant upon the library of an attorney who appeared before him.¹⁸ The public funding also helped pay for what were, even then, increasingly costly collections of materials. In addition to being a neutral collection of materials, publicly funded collections meant government officials had greater access to necessary legal materials.

Early public law libraries sometimes began as part of the State library, but were then shuffled, reorganized, or divided into autonomous or semiautonomous entities.¹⁹ Other early libraries began as autonomous county law libraries, created to serve primarily the local legal community and only incidentally the public. Academic and research libraries, which are sometimes open to the public, grew out of the development of law schools, starting in the late 1800s.²⁰

Other law libraries became available for public use, at least in a limited fashion, through the Federal Depository Program. Since 1895, any library that participates in the program is required to make the Depository portion of their collection open to the public.²¹ There is no requirement that the rest of the collection be open. As I stated above, I do not intend to define such libraries as “public law libraries.”

However, even public libraries obligated by enabling statutes or mission statements to serve the public and hold the entire collection open to the public, have historically viewed members of the public as secondary or tertiary patrons. The primary constituents of the library were members of the local bar, the judiciary, state legislators and other officials. Service to the public was either a minor goal, or an afterthought. This historical allocation of resources has created institutional policies and attitudes that are slow to change. Today, however, members of the public are an increasing percentage of law library patrons, and, as I will argue in section IV, we as a profession must serve these patrons well.

III. B. Information, Not Advice: Walking a Fine Line

In addition to these historic roots of public patrons’ secondary status, libraries have tended to hold them at arm’s length for another reason: fear of the perceived risks of interactions with them, especially fear of malpractice actions or actions for engaging in the unauthorized practice of law. Because of this fear, librarians have often limited the informa-

tion they will provide. Public patrons, viewed as a source of harm, are not made welcome, nor are they effectively assisted.

The potential for librarian malpractice has been explored in great detail in the literature. What that literature shows, however, is the opposite of what many librarians have feared—or have claimed to fear—in order to justify pre-existing attitudes.

Paul Healey, writing in 1995,²² identifies the beginning of this discourse as a 1976 mock news story published in *American Libraries*.²³ The story, Healey notes, may have given rise to the idea that an information malpractice action has been brought against librarians.²⁴ However, Healey's research uncovered *no* reported cases of malpractice actions against librarians.²⁵ This tends to suggest that while the exact parameters of the practice of law may be vague, most reference librarians are able to find and respect that line, providing competent reference information without giving (or even being perceived to give) legal advice.

Healey's article focused on reference services provided by a public or academic library. He did not, in this article, address "the issues peculiar to information brokers, special libraries, or libraries in which the librarian can be expected to be a subject expert, such as a law library."²⁶ This limited scope prompted a reply from two firm librarians, who argued persuasively that there are certainly consequences, possibly including litigation, for failure to provide complete or accurate information in a firm setting.²⁷

Healey returned to the debate in 1998, this time specifically addressing the legal and ethical issues that arise in public law libraries serving *pro se* patrons.²⁸ He agreed that a malpractice action against a librarian in a specialized law library is more likely than one against a librarian in a non-specialized library.

In general, the risk for liability [in a non-specialized library] seems small. However, this conclusion rests on the fact that it would not normally be reasonable for a library patron to rely on the reference librarian as an expert on the information found, as opposed to being an expert at finding information. When the librarian is a subject expert in a specialized library, such reliance could be much more reasonable. The key issue would be the extent to which the librarian implied that substantive legal help was being provided, as opposed to help with finding legal information. Librarians who take an advocacy approach to *pro se* problems could conceivably face liability if problems resulted from their activities.²⁹

Thus the fear of a malpractice action may have some basis for the lawyer-librarian. It is theoretically possible for an inadvertent client relationship to be established, and for a malpractice claim to arise from that relationship. Inadvertent attorney-client relationships, however, require that the "client" believe that she had established a client relationship with an attorney.³⁰ So long as the "client" does not know she is speaking with an attorney, it should be impossible to prove any such relationship. Clearly then, so long as the librarian maintains his or her role as a librarian, and does not hold herself out as an attorney to the patron, the possibility of malpractice becomes remote.

A more significant worry, and one which has had a greater impact on the quality and extent of reference services to *pro se* patrons, is the fear of engaging in the unauthorized practice of law.³¹ The worry is vague, because the practice of law (like the unauthorized practice of law) is not a well-defined concept. Often, the concern has been summed up with the mantra "information, not advice." This simple statement, however, is fraught with difficulty. Is it legal advice to point a patron to the statute you believe best matches the question they have asked? Is it legal advice to provide the notebook of child support modification forms you have downloaded from the internet? Is it legal advice to use a patron's own issue when teaching index use?

Responses to this vagueness have varied. In perhaps the most protective reaction, Kirkwood and Watts argue that *pro se* patrons should be carefully singled out, and given, at best, only the most limited legal information.³² Robert Begg, though not advocating "giving them the old runaround," notes that this is what law librarians serving the public often do.³³

In a more balanced approach, Madison Mosley argues that legal reference librarians must provide meaningful reference service, though they should take care not to perform lawyerly activities.

Reference librarians can draw the line between providing reference service and giving legal advice by being careful not to act in a lawyerly capacity. They must not speculate as to the outcome of an issue or tell an inquirer what procedural steps to follow. Neither should they go before tribunals or agencies on behalf of library users. Unless state statutes or court rules specifically allow, they should refrain from filling in forms for library users. These are activities within the practice of law. Activities that assist library users in locating information they feel addresses their legal problem are reference activities and are the appropriate province of reference librarians.³⁴

As Mosley notes, deciding what constitutes the practice of law is tricky; however, a librarian with a realistic sense of the sheer improbability of negative consequences can do meaningful legal reference without overstepping any legal boundaries.

I will not, in this essay, attempt to define what constitutes effective reference, nor what constitutes unauthorized practice of law.³⁵ Rather, I am interested in those techniques (other than traditional reference services) that can enhance service to public patrons. I leave it to the reader to find his or her own comfort level in answering reference questions. However, I encourage all readers to evaluate reference services with serious consideration of a public law library's obligation to provide meaningful information to all patrons, including their public patrons.

III. C. Budget Woes

Law libraries, for the most part, operate under strict budget constraints. In this setting, it makes sense for libraries to attempt to choose materials that will be the most effective for their users. In county and state libraries, lawyers have traditionally made up the majority of library users, and it has made sense for their needs to guide collection development. It is also true that while members of the public can make use of formal legal materials, lawyers are unlikely to make use of materials designed for *pro se* patrons. This too, has affected purchase decisions.

Collection development decisions can be very difficult when a library's budget suddenly tightens and trade-offs have to be made between competing user groups. Reba Turnquist, Collection Development Librarian at the Gallagher Law Library of the University of Washington and veteran of many budget crunches, explains that:

We had to try to decide exactly what we were going to do, who we would have to serve in the future, how the money could best be spent to serve the people who were our main responsibility. The faculty and the students of the law school come first, and the practicing bar are close behind. But you've got different kinds of material offered for researchers and people who are out there actually practicing. And this is where most of the problems in my job come from—trying to decide how much we can afford to buy of what we call the practitioner-oriented material that serves mainly the practicing bar.³⁶

Any purchasing of materials for non-lawyer patrons can be a special strain, taking resources away from the professional patrons. However, as I argue in section IV B, service to the public is not solely a cost. It is also an investment: serving the public well can ultimately create a more secure funding base, by placing the library in a more visible and essential role *vis-a-vis* the justice system.

IV. TODAY'S REALITY

It might be possible to argue that, while we are under an obligation to serve public patrons, it does not make financial sense to spend money on resources used by *pro se* patrons and not by attorneys. However, there are two reasons for believing law libraries should be devoting significant resources, including both money and staff time, to serving the public.

First, public patrons have a growing need for legal information. For a wide variety of reasons, the number of people who proceed *pro se* or proper in legal actions is escalating sharply. These people must have access to legal information in order for their right to self-representation to be meaningful, and devoting library resources to serving public patrons will help the library to meet the challenge of this growing user group.

Secondly, serving the public will, in the long run, enhance the stability of law libraries' funding base. So long as legislatures see law libraries as serving only lawyers, and not the public, they will be unlikely to view our services as worthy of financial support. Open and active service to the public, with meaningful outreach and public relations, will educate the financial decision makers as to our importance in the access to justice process.

IV. A. The Growing Numbers of Pro Se Litigants

Writing in 1976, Robert Begg posited several reasons why a litigant may choose to proceed *pro se*. These included:

- a desire to save money by not paying for an attorney;
- a belief that court procedures are simple enough for a layperson to handle alone;
- a mistrust of attorneys and the legal system;
- a mental illness or disturbance;
- the Perry Mason syndrome (T.V. makes it look easy);

- a desire for a technical advantage, enhancing their opportunity for delay or mistrial;
- a blind belief in their own innocence and in the ability of the legal system to see the justice of their cause.³⁷

Begg was writing near the beginning of the explosion in *pro se* litigation and cited no substantive research to support his conclusions. Some litigants can no doubt be found who personify each cause he lists, as well as various combinations of causes. For the majority of litigants, however, it is highly probable that the first reason is dominant.³⁸ And this first reason can be seen in a different light if it is simply worded differently: because an individual cannot afford an attorney, they face the stark choice between self-representation and no representation.

Surveys of *pro se* litigants have been primarily local, that is, within one court, or within a single state. Of these surveys, many have focused on family law cases, perhaps because the anecdotal evidence suggested that this was an area of highest need.

In one of the more recent studies, the Judicial Counsel of California found that in 1998, 52% of all the cases brought to family court services involved at least one unrepresented litigant.³⁹ When just child support cases are considered, the numbers jump. In private family law cases (where the case was not handled by a district attorney), at least one party was not represented more than 70% of the time. In more than 63% of cases, neither party was represented by an attorney. Fewer than 16% of cases had attorneys on both sides.⁴⁰

In Colorado, a study of domestic cases filed as *pro se* in 1997, 1998, and 1999 revealed that 55% of domestic cases statewide were filed *pro se*.⁴¹ Numbers for individual counties ranged anywhere from 31% to 100%.⁴² Colorado also looked at civil, non-domestic cases. Of those, in 1999, 32% statewide were filed *pro se*.⁴³

In Arizona, a study conducted in 1990 found that of all the divorce cases in the Superior Court of Maricopa County (Phoenix), at least one party was self-represented in over 88% of the cases. In 52% of the cases, neither party had legal counsel.⁴⁴

One larger scale study was conducted in 1992 by the National Center for State Courts.⁴⁵ This study collected data from 16 large urban trial courts from 1991 and 1992. The study found that in 18% of domestic relations cases, neither party had counsel. In 53% of the cases, only one party had counsel. That leaves just 29% of cases where both parties had representation.

It seems reasonable to assume that this explosion in self representation will have led to an increase in the use of public law libraries by non-lawyers. Indeed, there is a lot of anecdotal evidence that law libraries have much higher numbers of public patrons than in the past. But researching this assumption proves to be quite difficult, since it appears that no one has been keeping statistics for any length of time.

I responded to this information lacuna with an email query to the SCCLL listserv, and several libraries forwarded me their current numbers. Though this is a limited sample, they do at least indicate that current usage of the library by public patrons is substantial.

In Washington State, the Clark County Law Library reports that, on average, 70% of reference questions are asked by members of the general public.⁴⁶ In the King County Law Library (serving Seattle and surrounding communities), over half of all reference questions come from members of the public.⁴⁷

In Minnesota, the State Law Library reports that in the year 2000, public patrons accounted for 30% of reference questions, while students made up an additional 5%.⁴⁸ The El Paso County Law Library, in Colorado Springs, reports that public and *pro se* patrons average about 70% of their users.⁴⁹

Two law libraries responded with long term statistics, and both show a significant increase in public library usage over time.

Joan Bellistri reported that at the Anne Arundel County Circuit Court Law Library in Annapolis, Maryland, public usage doubled between 1983 and 1994. Between 1994 and 2001, public use has more than doubled again.⁵⁰

Numbers in Connecticut tracking public usage of five law libraries, show an average usage increase of 114%. Two libraries reported a 350% increase.⁵¹

These numbers, when combined with the figures collected by the courts, point to a significant and increasing need for legal information. We as law librarians are in a unique position to provide necessary information, and to make a fundamental difference in the lives of our public patrons.

At the same time as public patrons are increasing their library usage, lawyers are finding fewer reasons to need to leave their offices. The increasing number of resources available electronically, either on the Web or on media such as CD-ROM, have given lawyers easy access to many materials for which they used to visit the library. To the extent that lawyers continue to use libraries, it will depend upon habit, preference for print over electronic formats, or the availability of materials in the library that are not on databases such as Lexis and Westlaw.

IV. B. Becoming an Essential Part of the Justice System

In a time when law libraries continue to struggle for funding, serving the public well can enhance a library's ability to maintain or increase funding levels. Of course, the public does not fund the library. However, by serving the public, and by actively promoting the results of that service, libraries can gain the support of members of the bar, bench and legislature. But this will only happen when libraries position themselves as a fundamental and necessary part of the justice system, and when this position is publicly acknowledged.

Marvin R. Anderson, then State Law Librarian, Minnesota State Law Library, articulated this goal in 1992.

What we have tried to do in Minnesota is to make the law library the first rung in the administration of justice. We are the first place where people go to find out the rules, the statutes, and the regulations that govern the relationships between citizens and society. If we can get our court to view the law library as an integral part of the system of justice, to reduce or eliminate our services would be to reduce or eliminate a very important rung in the ladder of justice.⁵²

Anderson's statement was part of the proceedings of "The First Rung on the Ladder of Justice: Recommendations for Change in State Court Libraries," a conference focused on "develop[ing] a national strategy to enhance the operations capabilities of state and local court libraries."⁵³

Included in the conference proceedings are several original papers, including "Access to Justice Through Access to Legal Information" by Deborah Norwood, then Washington State Law Librarian. In this article Norwood notes that "there is a general lack of understanding about access to legal information."⁵⁴ This lack, she argues, arises from the failure of law librarians to articulate the importance of public access to legal information as part of the effective administration of justice.

In the late 1980s and early 1990s, Norwood was part of a group of Washington law librarians looking for ways to secure and improve the funding for county law libraries in Washington state. Norwood reports that they could find no study which mentioned the importance of law libraries in the context of improving the administration of justice or in increasing equal access to justice by citizens of the state.⁵⁵

Nearly 10 years later, my own research uncovered only one article discussing the roles of libraries in the access to justice movement. *Access to Justice: Public Access to Legal Information*, published in the Michigan Bar Journal in 1999,⁵⁶ is directed at attorneys who may not know where to send clients (or neighbors) who are looking for additional legal information. The article describes the various types of libraries where members of the public may find legal information. These include law school libraries, college and university libraries, and smaller collections within regular public libraries.⁵⁷

The access to justice movement, which focuses on bringing justice to all people, regardless of income level, frequently discusses the need for legal information for *pro se* litigants. However, the response by judicial systems and courts is often a call for information centers to be located in the courthouse—often, ironically, the very location of “legal information centers” that already exist, namely county law libraries.

Even writers who advocate for radical changes to the judicial system—through unbundling of legal services, and mandatory *pro bono* work, for example—do not mention law libraries as participants in the access to justice movement.⁵⁸ This seems to me to represent a failure of our profession to educate our constituents about the important role we play as disseminators of legal information. This failure, I believe, stems not just from lack of outreach, but from a lack of commitment to providing this service.

We must readjust our priorities and recognize the shift in our user populations. Law libraries are in a unique position to provide meaningful help to unrepresented litigants. We should embrace the opportunity to take a leadership role in the provision of legal information and the promotion of equal access to justice for all.

V. WHAT ARE WE DOING TO MEET THE NEED?

Across the country, many law libraries are rising to the challenge of serving *pro se* patrons. Creative programs, careful collection development, and effective reference services have made many law libraries excellent resources for public patrons. I list below, with commentary, *pro se* programs and policies from selected public law libraries. Most of these came from responses to an email posting I made on the SCCLL listserv, and some came from other research.⁵⁹ I present them as food for thought for libraries looking for ways to enhance their service to public patrons.

V. A. Attitude

The attitude found behind the reference desk can make a big difference in the *pro se* experience in the law library. As with any public service institution, the customer will feel welcomed only if the person providing the service takes the time to look up, make eye contact, and ask if they can be of assistance. Offering, however, is not all it takes.

Pro se patrons often approach the reference desk with some trepidation. The library may seem to them to be a place for lawyers only, and the non-lawyer is understandably nervous about the reception he or she will get. It is the responsibility of the library staff to ensure that any such trepidation is unwarranted.

Consider these two contrasting responses I received from law librarians in different parts of the country:

If we were a larger library with a larger budget it is possible we would try to publicize our existence a little more but then maybe not. I have been a law librarian for 26 years and have seen a drastic increase in lay people using our libraries. The more educated patrons do not seem to have a problem understanding our limitations with providing assistance. However, some less educated patrons do not understand why we cannot advise them concerning their specific legal problems and can be quite acrimonious. Marketing our library to the public would result in an increase in usage by lay people which in turn would result in less time available to devote to the legal community.

Our experienced two-person staff is focused on helping people, without practicing law. . . . A majority of our users are members of the general public. We believe the key to our success lies in the caring nature of the reference work we do.

Clearly these two libraries have different attitudes about the presence of lay people in their facilities. The former respondent's concern is not wholly unwarranted, as any public law librarian knows, but it can too easily be used to justify a policy of minimal assistance.

In some cases, as discussed above, libraries have a reference policy which prevents the librarian from going much beyond pointing out the books and suggesting the patron have a look through them. The librarian may feel that he or she is being as helpful as possible; the patron, disoriented in a legal setting and accustomed to fuller reference services in

general public libraries, may feel that this same behavior is rude and willfully unhelpful. If it is really not possible to change a restrictive reference policy, it can still be helpful to explain the policy, and the concerns that drive it.

V. B. *Pro Se Materials*

One obvious means of serving *pro se* patrons is purchasing self-help legal materials. These materials, whether or not specific to the library's state, can assist non-lawyers by providing common sense explanations of otherwise complicated legal processes. For example, while the lawyers who use the library may not appreciate a collection of Nolo Press materials, they would provide an invaluable resource for public patrons. Often, members of the public can use these materials as an introduction to a particular area of law. Once they have understood the general background, they are in a better position to understand the more technical, lawyerly materials contained in state practitioner series books.

Placement of these materials varies from library to library. Some libraries have incorporated these materials into their general collection. Underlying this decision is a belief that including these materials in the regular collection serves the interests of *pro ses* by encouraging "shelf browsing," and may lead them to find other, more traditional materials that are helpful. Placement in the regular shelves also helps the *pro se* patron feel integrated into the life of the library. In a library where there are relatively few materials, it may also not make shelf sense to pull these materials into a separate area.

Other libraries have shelved all *pro se* materials together, rather than integrate them into the regular shelving. This serves to create an easily identifiable source of materials for these litigants, and may make it easier to find useful material. Still other libraries have extended the notion of shelving *pro se* materials together and created a *pro se* wing, combining *pro se* materials into a centralized service base. While this may serve the interests of the *pro ses* in guiding them toward helpful materials, it is possible that these patrons feel segregated from the main part of the library and disenfranchised from the "true" use of the library. This will in part depend upon how welcome a staff makes a non-lawyer feel in the rest of the library. Certainly it can be a viable solution provided that, when the materials in the *pro se* section are insufficient, staff members are quick to guide non-lawyers to the more technical materials.

V. C. Forms

Many *pro se* litigants turn to their law libraries as a source for legal forms. Often they seek fill-in-the-blank materials because they wish to make sure that all legally necessary information is included in the pleading, but are uncertain as to what would in fact be legally sufficient. By seeking forms, they are hoping for a shortcut to proper pleadings.

The availability of forms varies widely from jurisdiction to jurisdiction, and the availability of forms may dictate the library's approach. In a state where there are many mandatory forms, all the state and county created forms can be easily available at the library. In other states, some libraries have taken the initiative to compile packets of forms for frequently requested actions. Still others have taken the initiative to create the forms themselves.

The provision of forms raises numerous management issues. If a library chooses to create forms, it must be careful that they are legally sufficient and that they do not create undue risk of an action for unauthorized practice of law. In any event, whether forms are created or simply distributed, libraries must also ensure that they are continually updated. Changes to both court rules and laws can make forms legally insufficient.

One effective way of maintaining a current and correct bank of forms is through partnership with a self-help agency or legal services corporation. The agency takes the role of materials creation, while the library provides an outlet for distribution. Such a partnership will allow each entity to better serve its clients. With the proliferation of web-based resources, this production/distribution mechanism may become easier. A legal services organization can maintain the resources on their website, and the library can point patrons to the sites. This helps eliminate some of the unauthorized practice of law questions that may otherwise arise if a library becomes the author of the forms.

One library reported that while they have no formal arrangement with a legal services group, "lots of goodwill and cooperation" has resulted in a member of the legal services group coming to the library to train library staff in particular procedures. This same group has provided manuals on filing petitions for temporary protective orders, and permits the library to make as many copies as necessary.

Some libraries have taken the tack of selling forms. This may be a follow up to the production of forms, or it may be just a means of avoiding keeping forms books. Keeping notebooks of forms available for photocopying is a valuable service, but it requires constant attention to keep them in order and complete. Patrons will frequently take the original, rather than

make a copy, or fail to return the form to its correct place in the notebook. Libraries that sell forms bypass this issue, because the patron never has access to the original notebook. Patrons may also prefer buying forms packets, since someone else has undertaken the selection of the forms, and they do not have to bother with the photocopier.

Some libraries may have stepped away from providing forms because of the presence of a nearby legal services or facilitators office. These offices often serve as resource centers for non-lawyers, and provide the necessary forms. In good situations, these centers work cooperatively with the library, so that both complement each other, rather than duplicate efforts.

V. D. Circulation

Many law libraries do not circulate their books, some circulate materials only to lawyers and judges, and others have made the decision to extend circulation to their *pro se* patrons. Circulation decisions must be made with reference to the environment of a particular institution, and will depend upon the needs of the user community and the availability of materials. Libraries who have chosen to circulate to non-lawyers do so in several different ways.

Some libraries charge for circulation privileges. In this situation, while anyone is welcome to come into the library, only those who have paid an annual subscriber or member fee are permitted to check books out. In some libraries, a shorter term membership is available especially for non-bar members. This shorter membership is generally a sufficient length of time for basic legal matters (four months at one library), but can be extended at the end of the period for an additional fee.

Other libraries do not charge for circulation, but do require non-lawyers to pay a deposit for all materials checked out. This gives the non-lawyer the ability to check a necessary book out, gives the borrower the incentive to return the book, and provides some offset of the book replacement cost if the materials are not returned.

Many libraries I heard from limit the number of books a non-lawyer can check out at any one time. Again, this minimizes the risk of loss of materials, and makes sure that no one patron creates a significant gap on the shelves.

V. E. Legal Research Training

Legal research is difficult, and most non-lawyers are not familiar with the specialized tools necessary to conduct legal research. Law librarians can therefore play a significant educative role. This is another

service that raises questions about legal information and legal advice, but, as we have seen, there is little reason to believe that trained librarians cannot walk that line.

Often legal research is taught on the fly, as part of the reference service. How detailed the instruction should be is often a judgment call based upon a quick assessment of the patron. Depending upon the patron, the patron's need, and the resources in which the information is located, it may be appropriate to simply direct the patron to a section of the library. In other situations, brief explanations in the peculiarities of a particular resource may be necessary.

As part of the reference process, many librarians find themselves giving preliminary information, such as a brief lecture on the difference between case law and statutory law, or the difference between secondary sources and primary sources. A librarian's willingness to be an educator makes a difference in the success (or otherwise) of a non-lawyer's visit to a law library.

Some libraries also teach formal legal research classes, with instruction in both traditional and computer research skills. These classes cover everything from basic legal system structure to using particular databases or research tools.

V. F. Library Created Research Materials

One library I heard from creates, collects and compiles detailed legislative histories. These histories are popular with *pro se* patrons who are looking for such information. Compiling a legislative history is a difficult task, even for experienced researchers, so this compilation represents a significant contribution to the legal research needs of patrons. While these materials are not solely used by non-lawyers, they are available to non-lawyers. They are perhaps more valuable to non-lawyers since it would be harder for them to do the legwork themselves to create histories.

Many law libraries have created detailed pathfinders to legal information. These guides, though not informing the patron of the content of the law in a particular area, do direct the patron to resources available on the web and in the library. These guides often reference the statutes, practice book sections, forms and case law relevant to a research area. They provide the public patron with places to begin their research on issues or procedures. Many of these guides are posted on websites, providing remote instruction for patrons.

V. G. Computers for Researching and Word-Processing

Computer assisted legal research plays a growing role in the researching of the law. Law libraries must choose whether or not to make these tools available to non-lawyers. On the whole, I believe that libraries are making their electronic resources available to *pro se* patrons. This is in part because many libraries are replacing paper resources with electronic versions, and no longer have the option of using paper versions. Some tools, of course, work better in electronic versions. Unfortunately, major vendors have not always cooperated in creating licensing agreements that enable public access to their databases. This is an area where further lobbying will clearly be necessary.

This shift to electronic research raises questions for the public patron. Public patrons often do not understand how to use the computer tools, and must be taught how to use individual products. Of course, different products work differently, so librarians must necessarily teach the use of each one separately. In some cases, the librarian is forced to explain basic skills like mousing and the use of scroll bars.

The number and availability of computer tools may also affect the library's decision to provide or limit access to them. In many cases, libraries have instituted daily time limits for individual patrons. Access is sometime provided through computer training centers. In such a setting, patrons have the option of attending more formal group training in particular resources. This gives the librarian the option of directing a patron at the time of the request, or asking the patron to return for more in-depth instruction.

When not in use, training centers are sometime open for use by patrons just for research. In these situations, where a library has multiple access points for research tools, the time spent by *pro se* patrons (which can be more than that spent by lawyers) becomes less of a burden on library resources.

V. H. Web Presence

Many law libraries now have websites, with varying degrees of information. For many libraries, this is another opportunity for members of the public to realize that the library is open to the public and has resources available for them. While some library websites contain only hours and basic information about the library, other libraries have posted extensive

links to self-help materials. Often, libraries with pathfinders to legal research areas post these on their websites as well.

At least two libraries reported that they have begun a virtual reference service. From the library's web site, users can email a reference question. Librarians respond with suggested resources to consult for answers.

V. I. Community Outreach

As seen in the quotations in the "Attitudes" section, libraries vary widely in their willingness to reach out to the public. In many cases, law libraries are too budget-stretched to conduct extensive outreach, but in some notable cases, libraries have conducted outreach in creative and unusual ways.

One county law library participates in an annual Boy Scout Law Merit Badge Day. The library hosts the annual event, which brings together various speakers from the legal system. The Scouts also participate as jurors in a mock trial.

The same library also hosts an annual "Family Reading Night." This event, geared towards children in second grade and younger, features three judges wearing their robes and/or pajamas, reading bedtime stories to the children. Snacks are provided, and after the stories the kids are given a tour of a courtroom (which includes sitting in the judge's chair, of course). This program is very popular, and is a "fantastic press opportunity." During this event a local mom and pop bookstore runs a book sale, with 15% of the profits going to support the library.

Another library also reaches out to young people. As part of "Take Your Child to Work Day," the library created and taught a class on different jobs performed by librarians. While this apparently was not met with great enthusiasm, a casual mention of copyrighted materials led to a spirited discussion, with the kids expressing an interest in immediately making use of the library materials to answer their questions.⁶⁰

V. J. Partnerships

Several law libraries have formed successful partnerships with bar associations or other agencies to provide enhanced services for public patrons within the library.

One such partnership was described by Stephen Jordan, writing in *AALL Spectrum*.⁶¹ His library, the State Law Library of Montana in Helena, partnered with the office of the state Attorney General, to provide a space in the library for a legal clinic. As described in the article,

the reference librarian serves as the initial point of contact. During that first contact, the librarian tells the patron about the clinic services, and informs them of the economic guidelines. If the person falls within the parameters, the librarian continues the interview, asking details about the type of legal information and advice the person is seeking. This information is placed in a file, and reviewed by the attorney. Once eligibility for the program is found, the librarian schedules an appointment for the patron to meet with an attorney in a library conference room.

Jordan writes that he finds the whole process very satisfying. And, he adds “to be part of a process involving our library and representatives from the legal community working together to achieve a common goal is enhancing for us all.”⁶²

Several libraries reported arrangements with general public libraries. One form of this partnership is the location of a law library within the physical space of a local public library. This sharing of resources enables the law library to provide a more accessible location for the law librarian, and integrates legal information service into other library services.

In other cooperative ventures with public librarians, several law librarians reported that they have trained public librarians in how to use a law collection, and how to find legal resources on the web. These training sessions, in addition to providing skills to the public librarians, have led to greater referrals from those librarians to the law library.

V. K. Accommodating Children

Law libraries are not libraries for children. Young adults, in their teenaged years, may have school projects that would require the use of the library, but for the most part the collection in a law library is inappropriate for children. However, many *pro se* patrons need to bring their children with them when they come to do research or find forms. These patrons are usually understanding of the idea that they are in an adult place, and that the children need to behave accordingly. However, libraries are much easier for some *pro ses* to actually use if they provide services that help accommodate children.

For example, many libraries keep a small box of toys, children's books and coloring materials behind the counter, available for use by smaller visitors. Many libraries also have private rooms available, where parents can retreat with their kids, making it less likely the children will disrupt the research of other patrons. One library has a small

shelf of children's videos, and a conference room where they can play and watch them.

One library has created a children's area in their *pro se* section. This area features a large cuddly stuffed animal, a child-sized table and chairs, and a child-sized book rack, with materials for kids. And as noted in the outreach section, another library even invites children for story night.

V. L. Other Amenities

Various services provided in the library can make the materials easier for people—*pro se* or otherwise—to use. First, photocopiers. Many patrons will need to copy library materials for later use. This may be because they are copying forms they need to fill out, or because they are copying materials for further study. In some cases, patrons make copies because they lack the necessary skills to read them (either because they lack English, or because they lack reading proficiency), and they wish to take them to someone who can help.

In these cases, libraries need to make sure that photocopy machines are readily available, and easy to use. This often entails instruction in how particular machines work. To accompany this service, libraries may also need to make change.

The costs of copying may be prohibitive to some litigants. One library has gotten their copy machine vendor to donate a copy card, to be used by litigants proceeding in forma pauperis, for making up to 50 copies a day. This helpful service addresses an often forgotten cost in the process of filing and pursuing legal action.

Some libraries make typewriters available. This may seem quaint, but it enables patrons to avoid hand-writing forms, and thus gives them an easy means to a more respectable final product. A typewriter also allows patrons to create their own form if that is necessary. Some libraries also provide computers and word processing—this is discussed in more detail above.

Lockers offer a useful place for patrons to place belongings while doing research. For patrons burdened with files and other items, it can be helpful to have a secure place to leave things while carrying on business in the library, and perhaps in the courthouse. Unfortunately, in the post-September 11 environment, lockers may be deemed an unreasonable security risk.

All libraries, law or otherwise, extend welcome to their patrons by creating comfortable places within the library for time-consuming reading.

Particularly for *pro se* patrons, materials may be challenging and require a significant investment of time to digest. If patrons are made to feel welcome, and if there is somewhere comfortable for them to work, they will be more likely to have a beneficial experience in the library. This may also be more important for *pro se* patrons if the library does not circulate materials to them.

Several law libraries report that they have a book exchange shelf for pleasure reading. These materials are not catalogued, but are available on an honor-swap system. No doubt the novels of John Grisham and Scott Turow feature prominently.

Many law libraries serve diverse patron groups, reflecting the racial diversity of their communities. Some law libraries use staff members who can speak a variety of languages, and have a website accessible in more than one language.

Paper, pens, white-out, paper clips, staplers and staple pullers are other little amenities that enhance the *pro se* litigant's experience with the law library. While these can be abused, for example, by patrons who take large stacks of paper, these abuses are not, in this librarian's experience, any less likely to come from lawyers. In any case, a library will inevitably absorb at least some costs associated with these problems in order to create a welcoming and helpful atmosphere.

CONCLUSION

In the past, the library profession has tended to view *pro se* patrons as a problem to be avoided, but some librarians and libraries have bucked this trend, seeing them instead as an opportunity for profoundly important service.

In the future, as the number of *pro se* patrons continues to grow substantially, the profession will be forced to make an explicit choice between these two responses. Those who continue to subconsciously or explicitly discourage *pro se* patrons will face a simple ethical challenge: justify your policies. As this paper has tried to show, doing so is not as easy as some traditionalists would like to think. And, more importantly, there is another way. Around the country, libraries are recognizing the breadth and depth of their responsibility to *pro se* patrons, and they are responding with a wide variety of techniques for enhancing their usefulness and usability.

NOTES

1. In this paper I use public patrons, non-lawyer patrons, and *pro se* patrons interchangeably. All refer to individuals who are not lawyers or government officials, but who are seeking legal information in the library. Some of these individuals may be involved in a court action, others may simply be seeking information related to a legal issue.

2. Cal. Bus. & Prof. Code Sec. 6360 (West 2002).

3. Jonathan A. Franklin, *One Piece of the Collection Development Puzzle: Issues in Drafting Format Selection Guidelines*, 86 Law Library Journal 753, 761 (1994).

4. Mission Statement of the Johnson County Law Library, email compilation posted by Susan Szymula, SCCLL-SIS listserv, February 26, 2002 (copy on file with author).

5. Mission Statement of the North Dakota Supreme Court Law Library, available at <http://www.court.state.nd.us/LawLib/WWW6.HTM>.

6. Mission Statement of the Clark County Law Library, available at <http://www.starklawlibrary.org/>.

7. The right of self-representation was first formally recognized in the Judiciary Act of 1789, and was most recently codified by Congress in 28 USC 1654 (1994). See Edward Holt, *Student Commentary, How to Treat "Fools": Exploring the Duties Owed to Pro Se Litigants in Civil Cases*, 25 J. Legal Prof 167 (2001). See also *Innaccone v. Callahan*, 142 F.3d 553 (2d Cir. 1998).

8. Mission statement of the University of San Diego Legal Research Center, available at <http://www.sandiego.edu/lrc/mission.html>.

9. "Mission Statement, 1990-94 Strategic Plan of the American Association of Law Libraries," 22 AALL Newsl. 201 (December 1990).

10. AALL 2000-2005 Strategic Plan, *Leadership for the 21st Century: New Realities, Changing Roles*, available at http://www.aallnet.org/about/strategic_plan.asp.

11. AALL Ethical Principles, available at http://www.aallnet.org/about/policy_ethics.asp.

12. *Id.*

13. The fact that a reference interaction is more difficult should not mean less reference help is provided. An attorney needing assistance researching a complicated tax provision would receive no less competent reference help than an attorney looking for the court rules, even though the former is more difficult than the latter.

14. Christine A. Brock, *Law Libraries and Librarians: A Revisionist History; or More than you ever wanted to know*, 67 Law Library Journal 325, 326 (1974).

15. *Id.* at 333.

16. *Id.* at 329.

17. *Id.* at 335.

18. *Id.* at 333.

19. *Id.* at 333.

20. The first law schools were founded much earlier than this. However, it took until the late 1800s for academic institutions to begin creating large scale libraries. *Id.* at 342-343.

21. Wendy R. Brown, *Federal Initiatives to Promote Access to Electronic Government Education: The Impact of the Federal Depository Program*, 91 Law Lib. J. 291, 293 (1999).

22. Paul Healey, *Chicken Little at the Reference Desk*, 87 Law Lib. J. 515 (1995).

23. Allan Angoff, *Library Malpractice Suit: Could It Happen to You?*, 7 Am. Libr. 489 (1976).

24. The story, as told by Allan Angoff, is that a librarian provided incomplete information on how to build a patio, the patio collapsed, and the patron sued.

25. Healey, *Chicken Little*, at 519-521.

26. Healey, *Chicken Little*, at 516.

27. Mark Mackler and Michael Saint-Onge, *Commentary: The Sky May Yet Fall on Firm Librarians: A Reply to "Chicken Little at the Reference Desk,"* 88 Law Lib. Journal 456 (1996).

28. Paul Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 Law Lib. Journal 129 (1998).

29. Healey, *Delicate Balance*, at 143.

30. ABA Formal Opinion 95-390 at 8, (January 25, 1995). See also, ABA/BNA Lawyers Manual on Professional Conduct 31:103-105 (1989).

31. It is commonly stated that lawyers claim the practice of law as their exclusive province because they wish to protect their revenue stream. Lawyers, however, counter that they protect the profession because untrained individuals can do significant harm if they attempt to practice law. Whichever reason you believe, it remains the case that the unauthorized practice of law is criminal activity in most jurisdictions.

32. C.C. Kirkwood and Tim J. Watts, *Legal Reference Service: Duties and Liabilities*, 3 Legal Reference Services Quarterly 67 (Summer 1983).

33. Robert Begg, *The Reference Librarian and the Pro Se Patron*, 69 Law Lib. Journal 26, 28 (1976).

34. Madison Mosley, Jr., *Commentary: The Authorized Practice of Legal Reference Service*, 87 Law Libr. J. 203, 209 (1995).

35. Readers interested in the debate can find a comprehensive bibliography in Paul Healey, *Pro Se Users, Reference Liability, and the Unauthorized Practice of Law: Twenty Five Selected Readings*, 94 Law Libr. J. 133 (2002).

36. Reba Turnquist, Interview Dec. 12, 1986, in *Marian Gould Gallagher Law Library: An Oral History*, 332 (Mary Ann Andersen, ed. and compiler, 1988).

37. Robert Begg, *The Reference Librarian and the Pro Se Patron*, 69 Law Libr. Journal 26, 26-32 (1976).

38. *How the Public Views the State Courts: A 1999 National Survey by the National Center for State Courts funded by the Hearst Corporation*, New York: The Hearst Corporation, 1999.

39. Judicial Counsel of California Fact Sheet, November 1999, available at <http://www.courtinfo.ca.gov/reference/documents/cajudsys.pdf>.

40. *Id.*

41. Governor's Task Force on Civil Justice Reform, *Exhibit 4, Domestic Cases Filed Pro Se*, available at <http://www.state.co.us/cjrtf/report/report.htm>.

42. *Id.*

43. Governor's Task Force on Civil Justice Reform, *Exhibit 5, Civil, Non-Domestic Cases Filed Pro Se*, available at <http://www.state.co.us/cjrtf/report/report.htm>.

44. Sales, Beck, and Haan, *Self-Representation in Divorce Cases* (Chicago, IL: American Bar Association, 1993).

45. John Goerd, *Divorce Courts: Case Management, Case Characteristics, and the Pace of Litigation in 16 Urban Jurisdictions* (Williamsburg, VA: National Center for State Courts, 1992).

46. Statement available at <http://www.co.clark.wa.us/law/liblaw.htm>.

47. Statistics available from Rita Kaiser, Reference Librarian, King County Law Library, Seattle, WA.
48. Minnesota State Law Library, *2000 Annual Report: 20 Years of Change*, available at <http://www.lawlibrary.state.mn.us/ar2000/ar2000.html>.
49. Mary Mardiguan, El Paso County Law Library, email correspondence to author, April 23, 2002.
50. Joan Bellistri, Anne Arundel County Circuit Court Law Library, email correspondence to author, May 1, 2002.
51. Maureen Well, Deputy Director, Law Libraries, email correspondence to author, May 2, 2002.
52. Marvin Anderson, *Issue Statement*, in *The First Rung on the Ladder of Justice: Recommendations for Change in State Court Libraries*, Proceedings of the National Conference on State Court Libraries, at 38 (1992).
53. *Id.* at vii.
54. Deborah Norwood, *Access to Justice through Access to Legal Information*, in *The First Rung on the Ladder of Justice*, at 60.
55. *Id.*
56. Barbara Bonge, *Access to Justice: Public Access to Legal Information*, 78 Michigan Bar Journal 1130 (October, 1999).
57. *Id.* at 1132.
58. See, for example, Deborah L. Rhode, *Conference Proceedings: Opening Remarks: Professionalism*, 52 S.C.L. Rev. 458, 465-467 (Spring 2001).
59. See appendix one for a list of libraries providing particular services. I have not, in the text of this article, linked my discussion to a particular library.
60. Claudia Jalowka, *Marketing Early, Marketing to the Young*, AALL Spectrum, June 2001, at 38.
61. Stephen R. Jordan, *Pro Bono Legal Advice for Pro Se Clients*, AALL Spectrum, July 1998, at 28.
62. *Id.*

Received: 05/30/02

Revised and Accepted: 08/02

APPENDIX 1

Libraries and Services

The list below reflects information I received via email from the listed contact person. I am grateful for the generous responses from these many librarians. This information does not represent a complete listing of the services at these particular libraries—simply what they chose to emphasize in response to my questions.

Anoka County Law Library, Anoka, MN—Gene Myers

- *Pro se* materials moving out in the open, nearer the reference desk
- Focus on providing helpful, caring reference

Beaver County Law Library, Beaver, PA—Bette Dengel

- Create detailed handouts on custody, support, and DUI materials
- Provide web links for research

Broward County Law Library, Ft. Lauderdale, FL—Jeanne Underhill

- Created book of commonly used forms, ready to photocopy and fill in
- Provide a correction typewriter
- Provide several PCs with WordPerfect, CDs, and fast Internet access
- Keep children's books
- Maintain private rooms where parents may go with their children
- Provide a free local telephone
- Supply band-aids, aspirin, alcohol, white-out, scratch paper, pens

Clark County Law Library, Vancouver, WA—Maria Sosnowski

- Have forms available for copying
- Provide one on one instruction in using the computer, shepardizing, etc.
- Maintain a list of low income attorney referral sources
- Provide handouts from a mediation service through the county

Connecticut Judicial Branch Law Libraries, Hartford, CT—Claudia Jalowka

- Detailed pathfinders to particular subjects available on the Connecticut Judicial Branch Law Libraries website
- Partner with other court departments to evaluate what services are being provided to the public, who is providing them, and how best to coordinate the efforts
- Create checklists for patrons regarding the pre-trial pleadings phase of a basic civil litigation case and other basic procedural processes

Connecticut State Library, Hartford, CT—Steve Mirsky

- Track bills and create complete legislative histories—these are made available to the public
- Provide access to complete legislative histories for CT back to 1953 (incomplete collection of public hearings available back to 1899)—these are made available to the public
- Provide finished official copies of House, Senate, and Committee hearings for the legislature and general public access
- Provide in-person and virtual reference assistance to the general public, court personnel
- During legislative session, provide bill tracking to CT State Agencies and nonprofits within the state
- Publish indexes to accompany CT administrative decisions, public and special acts which are available to the public both online and in paper

Fulton County Law Library, Atlanta, GA—Sandra Howell

- Self-help materials in one very visible area
- Quick reference section behind the Front Desk with most frequently used legal treatises and form books
- Brochure on “Sources of Legal Assistance in the Atlanta Area”
- Disseminate self-help manuals on filing for a temporary protection order for family violence or stalking
- Cooperation with Georgia Legal Services for staff training related to the self-help manuals
- Very simple form (ex., pauper’s affidavit, verification form)

Jefferson County Law Library, Birmingham, AL—Linda Hand

- Provide coin-operated copiers
- Supply 30 minutes daily, per patron, of free Westlaw access, with individual assistance as necessary

Kane County Law Library, St. Charles, IL—Halle Mikyska and Nancy Lee Browne

- Host the annual Boy Scout Law Merit Badge Day
- Host an annual Family Reading Night in conjunction with the Illinois State Library’s program of the same name
- Teach a National Law Day legal research seminar
- Host and conduct basic legal system and research classes for local high schools, paralegal programs, and library systems
- Run a book sale of donated outdated legal and non-legal material
- Circulate a fiction, children’s and audio collection (mostly legal or politically based), gathered through donation

King County Law Library, Seattle, WA—Rita Kaiser

- Publish (in print and on the website) detailed pathfinders on a variety of legal issues of interest to *pro se*s
- Maintain an extensive selection of links for Internet legal research
- Host a monthly class “How to Complete Your Divorce” taught by the King County Bar Association
- Maintain a comprehensive list of agencies for referrals
- Run a Legal Research Training Center, providing training and electronic resources (including Loislaw, Quicklaw, and Internet) for *pro se* patrons
- Provide access to SCOMIS, the system used to manage and report Washington’s Superior Court cases
- Teach regular legal research training sessions for *pro se*s

Minnesota State Law Library, St. Paul, MN—Barbara Golden

- Serve as the library for accreditation purposes for a local paralegal program
- Present a “Showcase” series in the Spring and Fall, with speakers on topics of general interest (not necessarily legal)
- Provide a box of toys and videos for children, and a room for playing and watching
- Host a book exchange for pleasure reading
- Host law book giveaways
- Provide a conference room where public patrons can schedule meetings
- Lead a regularly scheduled weekly tour, as well as tours upon request

Oakland County Law Library, Pontiac, MI—Dianne Zyskowski

- Collect user friendly items such as NOLO press books, West’s nutshell books, pamphlets from Michigan government agencies, etc.
- These items are shelved in a separate “Self-help” section, which also includes law dictionaries and Martindale Hubbell
- One-on-one assistance with the process of legal research
- Trained public librarians and paralegal students on how to use a law collection, and how to find information on the Internet
- Provide email reference “Ask the Library”—will provide likely resources in response to email questions
- Forms available for copying
- 7 computers, with Internet, CD-rom and online services, MS Word, and a Westlaw.com Michigan practitioners’ plan
- Annotate the links on their web page so the public has a better idea of what is included
- Include research tips on their website

Palm Beach County Law Library, Palm Beach, FL—Linda Sims

- Show Legal Research for the 21st Century videos. Show one a week for 5 weeks, then allow individuals to rent the videos for \$10 a week (with \$100 cash deposit)

Washoe County Law Library, Reno, NV—Sandy Marz

- Lawyer in the Library Program, a one night a week opportunity to meet with a volunteer attorney

